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MICHAEL BOON, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1975
No. 75-5426

TIMOTHY WESLEY ROBBINS,
Petitioner,

vs.

STATE OF NORTH CAROLINA,
Respondent.

ON WRIT OF CERTIORARI
TO THE
SUPREME COURT OF NORTH CAROLINA

RESPONSE OF RESPONDENT,
STATE OF NORTH CAROLINA,
IN OPPOSITION TO
PETITION FOR WRIT OF CERTIORARI

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INDEX

Citation to Opinion Below	1
Jurisdiction	1
Question Presented	1
Constitutional and Statutory Provisions Involved	1
Statement of Case	2
Statement of Facts	2
Reasons for Not Granting the Writ	2
I. The Court Should Not Grant Certiorari to Consider Whether the Imposition and Carrying Out the Sentence of Death for the Crime of Murder Under the Law of North Carolina Violates the Eighth or Fourteenth Amendment to the Constitution of the United States. . . .	2
Conclusion	3

TABLE OF CASES

Fowler v. North Carolina, No. 73-7031 (cert. granted October 29, 1974)	2
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Statute:

28 US Sec. 1257 (3)	1
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CITATION TO OPINION BELOW

The opinion of the Supreme Court of North Carolina is reported at 287 NC 483, 214 SE 2d 756 (1975), and is appended to petitioner's petition as Appendix A.

JURISDICTION

Petitioner seeks to invoke the jurisdiction of this Court pursuant to 28 USC Sec. 1257(3).

QUESTION PRESENTED

- I. WHETHER THE IMPOSITION AND CARRYING OUT OF THE SENTENCE OF DEATH FOR THE CRIME OF MURDER UNDER THE LAW OF NORTH CAROLINA VIOLATES THE EIGHTH OR FOURTEENTH AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED

1. This case involves the Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States.
2. This case involves NC Gen. Stats. Secs. 14-17, 14-18, 15-187, and 15-188 as cited by defendant-petitioner in his Petition for Writ of Certiorari.

STATEMENT OF CASE

Petitioner, Timothy Wesley Robbins, was tried and convicted of first-degree murder and kidnapping at the May 1974, Criminal Session, Guilford County Superior Court, Greensboro Division, Greensboro, North Carolina. Petitioner appealed his conviction to the North Carolina Supreme Court, which, in its Opinion filed June 16, 1975, affirmed petitioner's conviction and death sentence. Petitioner now seeks review in this Court upon Petition for Writ of Certiorari to review the judgment of the Supreme Court of North Carolina.

STATEMENT OF FACTS

The State-respondent adopts as its own as if fully set out herein the facts as stated by the North Carolina Supreme Court at pages 758-760 (Southeastern Reporter) of its Opinion in STATE V. ROBBINS, 287 NC 483, 214 SE 2d 756, a copy of which is attached to petitioner's petition as Appendix A.

ARGUMENT

- I. THE COURT SHOULD NOT GRANT CERTIORARI TO CONSIDER WHETHER THE IMPOSITION AND CARRYING OUT OF THE SENTENCE OF DEATH FOR THE CRIME OF MURDER UNDER THE LAW OF NORTH CAROLINA VIOLATES THE EIGHTH OR FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.


There is no valid reason for the Court to grant certiorari at this time to hear this question. This Court in the case of FOWLER V. NORTH CAROLINA, No. 73-7031 (October Term, 1974) granted certiorari to petitioner Jessie Thurmon Fowler to hear this identical question. Extensive briefs were submitted in that case and oral arguments were made before this Court on April 21, 1975. Reargument was scheduled for the October 1975 Term of this Court. This question, therefore, has been presented to the Court, has been accepted for hearing by the Court, oral arguments before the Court have already been made; and further arguments are to be made. Therefore, any decision in this case should be dependent on the outcome of the FOWLER case, and the Petition to Grant Certiorari should be denied.

CONCLUSION

For the foregoing reasons, the State-Respondent respectfully submits that certiorari should be denied.

Respectfully submitted this the 17th day of November, 1975.

RUFUS L. EDMISTEN
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing RESPONSE OF THE STATE OF NORTH CAROLINA TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF NORTH CAROLINA on petitioner by depositing the same in the United States Mail addressed to the following person:

Mr. Wallace C. Harrelson
Public Defender
18th Judicial District
State of North Carolina
P. O. Box 2368
Greensboro, North Carolina. 27402

This 17th day of November, 1975.

RUFUS L. EDMISTEN
Attorney General



William W. Melvin
Special Deputy Attorney General